



## Memorandum # 25/2004

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
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### MEMORANDUM

TO: All Retirement Boards

FROM: Joseph I. Martin, Deputy Executive Director

RE: Fiscal Year 2005 Budget Items Relating to Public Retirement

DATE: July 8, 2004

The recently enacted FY05 State Budget contained several provisions that impact G.L. c. 32 and public retirement in Massachusetts. Some of the provisions were signed into law by Governor Romney, some were vetoed, and some were returned to the Legislature with proposed amendments. This Memorandum will first deal with those sections that were signed and except as noted below became effective on July 1, 2004, and will discuss the actions that Retirement Boards will need to take in response to these new provisions. We are including only those sections that are applicable to all retirement systems, and not sections that pertain to only one system or community. We will also briefly mention the sections that were vetoed by Governor Romney and those that were returned with suggested amendments.

Attached is a copy of the enacted sections of the Budget that are discussed. This Memorandum is intended to advise the Retirement Boards of the changes in the General Laws that deal with retirement issues. It is not a substitute for a careful reading of the statutes.

### **FY05 BUDGET ITEMS THAT WERE ENACTED**

#### **Public Records Exemption**

**G.L. c. 7, § 4, cl. 26** was amended to include two new subclauses to the list of exemptions from the definition of public records. Home addresses and home telephone numbers of public employees are no longer public records and subject to release. The name, home addresses and home telephone numbers of a family member of an employee of the Commonwealth are also not subject to release.

Board action needed: The advisory issued to Boards on August 15, 2000 (PERAC Memo #35/2000) remains in effect for public safety personnel because the section of the law discussed in that Memo has not been changed. Boards now

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will treat all public employees' home addresses and home telephone numbers in the same manner as those of public safety personnel.

**Monitoring Suspensions and Convictions**

**G.L. c. 32, § 15, c. 30, § 59 and c. 268A, § 25** were amended to provide that the Attorney General and the District Attorneys will be required to advise PERAC if a member of a Retirement System is convicted of a crime that may require action pursuant to the provisions of G.L. c. 32, § 15. The amendments also require notice from the employer to the Retirement Board if an employee is suspended while under indictment. These amendments were proposed by the Commission.

Board action needed: When a Board is advised that a member has been indicted and suspended from his or her position, steps should be taken to monitor the legal process. If the result of the indictment is a conviction, the Board should obtain all relevant documents and proceed with the process outlined in G.L. c. 32, § 15. When PERAC is advised of a conviction by the Attorney General or a District Attorney, the appropriate Retirement Board will be advised so that the process provided for in G.L. c. 32, § 15 can begin.

**G.L. c. 32, § 1 Definitions**

**G.L. c. 32, § 1** was amended to add a new definition, "accumulated assumed actuarial deductions."

Board action needed: This section is a companion to a section that Governor Romney returned to the Legislature for amendment, so no action is required at this time.

**G.L. c. 32, § 1** was amended by adding a definition of "actuarial assumed interest." This interest is equal to the system's actuarial assumed rate of return.

Board action needed: The actuarial assumed rate of interest is the interest rate to be applied when a retiree is reinstated to membership pursuant to the newly enacted G.L. c. 32, § 105, more fully discussed below.

**G.L. c. 32, § 1** (definition of actuarial equivalent) was amended to allow the PERAC Actuary to select a new mortality table and interest rate to be used in the calculation of retirement options. The Commission is to review and act on this selection within 180 days. Until December 27,

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2004, the existing annuity factors and Option C adjustments remain in effect. The Commission will review the tables and make a final selection for implementation on December 27, 2004. Please see PERAC Memo #23/2004.

Board action needed: No action is needed at this time.

**Dependent Benefit Uniformity**

**G.L. c. 32, §§ 7, 9, 12B, 26, and 100** were amended to make the references to ages of eligibility for dependents' benefits uniform ending upon attaining age 22 for full time students. These amendments were proposed by the Commission.

Board action needed: Board records should be reviewed to ensure that dependents' benefits continue to be paid until a beneficiary attains age 22 if they are a full-time student at an accredited educational institution. These sections are not retroactive, so Boards are not required to recalculate benefits that were properly terminated under the law then in effect.

**Death Benefits**

**G.L. c. 32, § 12(1)** is amended so that one individual cannot receive both an accidental death benefit and an Option C benefit as the result of the death of a member. If the Option C beneficiary and the accidental death beneficiary are different individuals, two benefits will be available.

Board action needed: This amendment will affect any retiree whose option selection is filed on or after July 1, 2004. PERAC will issue new instructions regarding this amendment to be included in the option selection information. Members who retired and selected Option C between November 7, 1997 and June 30, 2004 will not be affected by this amendment. In those cases, the possibility remains that a single eligible beneficiary can receive both the Option C benefit and the accidental death benefit.

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**Post-Retirement Earnings Reporting**

**G.L. c. 32, § 91A** is amended so that the disability retirement allowance of a retiree who fails without good cause and following a number of notices to submit the annual statement of earnings will be terminated rather than withheld until the retiree complies with the filing requirement.

Board action needed: No action is needed at this time. If a retiree is affected by this section, the appropriate Board will be advised by PERAC of the necessary actions, including the need to give the member an opportunity for a hearing.

**Reinstatement after Retirement Pursuant to G.L. c. 32, § 5 and § 10**

**G.L. c. 32, § 105** is a new section that allows retirees to be reinstated to membership in certain circumstances. Persons retired pursuant to G.L. c. 32, § 5 or § 10 and who later become employed in the public sector will be eligible to be reinstated to membership if the total amount of any retirement allowance received is repaid to the system from which it was received, plus the actuarial assumed interest on that amount (See new definition for assumed actuarial interest in G.L. c. 32, § 1 and discussed above). The member may pay the amount owed in a lump sum or in installments as the Board may prescribe. Any creditable service that the member had been granted prior to retirement is restored and the person again begins to contribute to the system at the contribution rate in effect on the date that the member waived his or her allowance to become employed or the date of reinstatement, whichever is earlier.

If the reinstated member remains employed as a full-time employee and contributes for at least 5 years, upon his or her retirement, credit will be granted for the reinstatement service and any other service that the reinstated member has purchased. If the reinstated member has not completed payment for all service prior to reinstatement, the Board can grant proportional service. If the reinstated member does not remain employed and contributing for at least 5 years he or she will not be entitled to any creditable service that had not been granted at the time of initial retirement. Upon termination, he or she will receive a refund of all of the payments(s) he or she made into the system, plus the interest that has been credited to the annuity account after reinstatement.

Board action needed: The implementation of this section will be very individualized. At this time, any Board that is faced with a retiree requesting reinstatement should contact PERAC for assistance. New forms to assist in the implementation of G.L. c. 32, § 105 will be issued soon.

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### **FY05 BUDGET ITEMS RETURNED FOR AMENDMENT**

Governor Romney returned three sections of the FY05 Budget dealing with retirement matters to the Legislature for amendment. These sections would have changed the amount of interest that a member would be required to pay into the system when purchasing creditable service. We will continue to monitor these sections and advise the Boards if further amendments are enacted.

### **FY05 BUDGET ITEMS VETOED BY THE GOVERNOR**

Governor Romney vetoed a number of sections in the FY05 Budget dealing with retirement. We will continue to monitor these and advise of further legislative action with regard to them. Some of the vetoes were related to sections that do not impact all of the Retirement Systems and will not be discussed here. These include:

A section of the FY05 Budget that would have made certain PRIM documents confidential and not subject to release was vetoed.

A section of the FY05 Budget that would have retained the availability of the spousal benefit contained in G.L. c. 32, § 5(1)(e) for any members who were members in service on or before November 1, 2003 was vetoed.

A section of the FY05 Budget that would have required the PERAC Actuary to conduct a study of the costs and actuarial liabilities that would be attributable to raising the \$12,000 COLA base was vetoed.

If you have questions, please feel free to contact this office.

Enclosure